STATE OF MICHIGAN

COURT OF APPEALS

In re SUSAN G. EGGERS.

PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellee,

v

SUSAN G. EGGERS,

Respondent-Appellant.

UNPUBLISHED
June 28, 2005

No. 252843
Wayne Circuit Court
LC No. 00-394399

Before: O'Connell, P.J., and Schuette and Borrello, JJ.

PER CURIAM.

Respondent appeals as of right from an order committing her to the Adrian Training Center for Girls. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

I. FACTS

In July of 2001, the trial court placed respondent, who was then thirteen years old, on probation for school truancy in violation of MCL 712A.2(a)(4). After being found in violation of her probation, respondent spent more that a year in a facility run by the Wayne County Department of Community Justice. In January of 2003, the trial court de-escalated respondent's status and allowed her to go back to living with her mother. But in October of 2003, the prosecution filed an escalation petition alleging that respondent failed to attend school daily and recommending that she again be placed in an institution.

The school's attendance records indicated respondent had 148 unexcused absences from individual classes and an additional 37 excused absences which occurred on days she saw her doctor. Respondent suffers from a hives condition that she developed in August, 2003. Further, the court had ordered respondent to attend a day treatment program, but she failed to attend for three weeks preceding the hearing. Respondent's doctor did not indicate that her medical condition prevented her from attending the program and refused to give her medical excuses for the days she did not actually see him.

Following a hearing on the petition, the trial court found by a preponderance of the evidence that respondent had not been attending school on a regular basis. The court noted that, although it believed some of these absences were due to her medical condition, not every class respondent missed between August and November of 2003 occurred because she suffers from hives. The trial court therefore ordered respondent placed in medium security placement at the Adrian Training School for Girls.

On appeal, respondent contends that the trial court erred by ordering this placement. Specifically, respondent asserts that the court abused its discretion in failing to obtain evidence regarding her medical condition and in concluding that her testimony at the hearing was false. Respondent further contends that the trial court abused its discretion by exhibiting bias against her.

II. STANDARD OF REVIEW

We review a trial court's findings of fact at a juvenile sentencing hearing for clear error. *People v Brown*, 205 Mich App 503, 504-505; 517 NW2d 806 (1994). Such findings are clearly erroneous if, after review of the entire record, we are left with a definite and firm conviction that a mistake has been made. *Id.*, 505.

III. ANALYSIS

Under MCL 712A.2(a)(4), the family division of the circuit court has original and exclusive jurisdiction in proceedings concerning a juvenile under 17 years of age who "willfully and repeatedly absents himself or herself from school or other learning program intended to meet the juvenile's educational needs." The court has broad discretion in fashioning a dispositional order for a child within its jurisdiction in order to protect the respondent's best interests. MCL 712A.18(1)(b).

When a juvenile is placed on probation, the court must, upon the receipt of sworn supplemental petition alleging a violation of any condition of probation and a denial of this allegation by the juvenile, hold a probation violation hearing. MCR 3.944. If the court finds that a violation of probation has occurred, it "may modify the existing order of probation or order any disposition available under MCL 712A.18 or MCL 712.18a." MCR 3.944(E)(1). Among the dispositions available is the option to "commit the juvenile to a public institution, county facility, institution operated as an agency of the court or county, or agency authorized by law to receive juveniles of similar age, sex, and characteristics." MCL 712A.18(e).

In the instant case, although respondent disagreed as to the exact number of classes missed, she acknowledged having at least 128 unexcused absences within a four-month period. Furthermore, respondent failed to attend the day treatment program ordered by the court. Although respondent claimed these absences were due to a medical condition, she admitted that her physician refused to provide her with medical excuses for days when she was not actually in his office receiving treatment. Consequently, the trial court's finding that respondent violated the terms of her probation does not constitute clear error. And because MCR 3.944(E)(1) and MCL 712A.18(e) grant it the authority to commit a juvenile who has violated probation to such an institution, the trial court did not abuse its discretion by ordering respondent placed in the Adrian Training Center. Therefore, we affirm the trial court's order.

The fact that the trial court did not require respondent's doctor to testify regarding her medical condition does not alter this result. Under MCR 3.944(C)(1)(d), respondent could have had the court order the doctor to appear and give testimony. Not only did respondent fail to take this action, she conceded that the doctor refused to provide excuses for her absences. Further, respondent cites no authority in support of her contention that the trial court had an obligation to sua sponte obtain testimony from the doctor. "An appellant may not merely announce his position and leave it to this Court to discover and rationalize the basis for his claims." *People v Kelly*, 231 Mich App 627, 640-641; 588 NW2d 480 (1998). To properly present an issue for appellate review, a party must provide more than "cursory treatment with little or no citation of supporting authority." *Id.*, 631.

Additionally, the trial court's decision does not constitute an abuse of discretion due to bias against respondent. There exists a heavy presumption of judicial impartiality. See *Cain v Dep't of Corrections*, 451 Mich 470, 497; 548 NW2d 210 (1996). Judicial rulings alone almost never constitute a valid basis for a finding of bias. *Id.*, 496, citing *Liteky v United States*, 510 US 540; 114 S Ct 1147; 127 L Ed 2d 474 (1994). In the instant case, contrary to respondent's contentions on appeal, the trial court did not reject her testimony out of hand. The court found that, even though respondent may have suffered from hives as she testified, this did not account for all of her absences or explain why she had not been attending school. Although the trial court expressed serious doubts as to the truthfulness of respondent's testimony, the mere fact that, after weighing the credibility of the witnesses, it ruled against her does not establish bias or render its decision an abuse of discretion.

Affirmed.

/s/ Peter D. O'Connell
/s/ Bill Schuette
/s/ Stephen L. Borrello